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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,113	10/17/2005	Bjarne Nordli	05080	9455
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EXAMINER				
EPPEL, BRYAN L				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,113

Applicant(s)

NORDLI, BJARNE

Examiner

BRYAN EPPES

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a first office action on the merits for application serial number 10/539,113 filed 6/16/2005. Claims 1-25 are pending.

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the transition-element (Claims 9 and 17), end-piece (Claims 10 and 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 8 is objected to because of the following informalities: "the pair common pipe element" lacks proper antecedent basis. Appropriate correction is required.
4. Claim 17 is objected to because of the following informalities: "the longitudinal slit" lacks proper antecedent basis. It appears the claimed slit would only exist if in combination with additional constructional elements.
5. Claim 20 is objected to because of the following informalities: "the concave side" lacks proper antecedent basis

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The following claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 3, 15, and 25. The phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

b. Claim 8. The phrase from lines 5-7, "attached a one of their sides to a number of all to all ribs of each structural element, and at the opposite side to one for" is unclear.

c. Claims 9-11 and 18. The phrase "diffusion proof" is ambiguous. In general, the terms would connote something completely resistant to scattering or spreading widely. It is unclear as to whether Applicant intends the language to simply describe that the claimed materials are attached or something more.

Please clarify.

d. Claim 12. The term "speilsveising" must be translated or an English equivalent used in the claim. To the best of Examiners knowledge, a rough translation of the term refers to a spike or nailing. Furthermore, the phrase "optionally" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. The language in sub c) "attached in pairs at both ends" is confusing as to whether a pair is claimed on each end or each end has an attachment means that results in a pair.

Finally, the language in sub ii) "placing together two and two" conflicts with the idea that a pair is attached together.

e. Claim 24. The claim sets out a list of steps that occur prior to step "b" of independent claim 22. The claim causes confusion since claim 24 purports to add a layer of thermoplastic material through extrusion to the boards before coating one side of each board with plastic material. It is unclear whether it was the intent of Applicant to require multiple plastic coatings.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6, 8-12, 14, 15, 17, 18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muszynski (U.S. Pat. Pub. 2006/0168904).

f. Claim 1, 18, and 22. Muszynski discloses a constructional element comprising two structural elements 3 in the form of side walls based on a single wooden or wood-like board (¶73 Lines 1-5), characterized in that the inside of each board is furnished with ribs 1b that make the walls more stable, and an attachment means 1a, interpreted as the pair of faces mating with 1b, that hold the structural elements 3 at a predetermined distance from one another.

Muszynski lacks wherein the side walls include an inner coating of plastic attaching the ribs thereto. However, Muszynski teaches the use of glue to attach the ribs 1b to the structural elements 3 (§92 Lines 13-15). The uses of plastic based bonding agents (i.e. glues) are notoriously well known in the art of adhesives, specifically synthetic adhesives. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use a plastic based adhesive as the glue taught by Muszynski since plastic based adhesives are well known adhesives that do not yield any new or unexpected results.

Regarding claim 22, the structure of the apparatus renders the claimed method steps obvious since the claimed method steps would inherently be performed when assembling the combination as disclosed.

g. Claims 2 and 3. Muszynski teaches the combination as described above, but lacks wherein the glue is either a thermoplastic, specifically polyethylene, polypropylene, or PVC, or a thermosetting plastic. However, both the thermoplastics, including those listed and thermosetting plastics are well known bonding agents that are relatively inexpensive with respect to strength and weatherability. Further, thermoplastics and thermosetting plastics do not yield any new or unexpected results when used.

h. Claim 4. Muszynski discloses the constructional element wherein the ribs 1b are wooden (§73 Lines 1-5).

- i. Claim 5. Muszynski discloses the constructional element wherein the ribs 1b are steel, described as metal, synthetic material, or composite materials (§73 Lines 1-5).
- j. Claim 6. Muszynski discloses the structural elements 3 having a convex outer surface (Fig. 43).
- k. Claim 8. As best understood by Examiner, Muszynski discloses the attachment means 1a, that hold the structural elements 3 at a predetermined distance from one another, attached to the ribs 1b in a fixed distance from one another and having a pipe 14 therein extending vertically through the element (Fig. 43).
- l. Claim 9. Muszynski discloses a transition-element, shown as rib 1b having port 15, attached in a diffusion proof manner by way of the glue, the central opening 15 has an inner shape capable of corresponding to the outer shape of a cogging element or splicing element (Fig. 41).
- m. Claim 10. Muszynski discloses an end-piece, described as a plug 11, attached in a diffusion proof manner by way of the glue, capable of being used at an end or ends facing a door or window frame (Fig. 41).
- n. Claim 11. Muszynski discloses sealing the slits between sidewall edges with band elastic seals 23, interpreted as tape, in a diffusion proof manner using fasteners (Fig. 55; ¶106 Lines 6-9).
- o. Claim 12. As best understood by Examiner, Muszynski teaches:

- i. Wooden or wood-like boards 3 are coated with plastic, interpreted as the glue described above,
 - ii. A number of ribs 1b arranged at certain intervals and attached with the glue, regarding the method step of attaching the ribs 1b to the boards 3, the gluing process would necessarily require pressing,
 - iii. After which, attachment means, interpreted as the pair of angled faces that form the dove tail joint 13 of rib 1b shown in figure 47, are attached to pipe element 1a (Figs. 47-49), thereby bridging a connection between a pair of structural elements.
- p. Claim 14. Muszynski teaches the method as described above, except wherein the plastic material, described as glue, is a thermoplastic material applied by extrusion. Extrusion of a thermoplastic is a known bonding material and method for its application that does not yield any new or unexpected results.
- q. Claim 15. Muszynski teaches the method as described above, except wherein the plastic material, described as glue, is a thermosetting plastic material. Thermosetting plastic is a known bonding material and method for its application that does not yield any new or unexpected results.
- r. Claim 17. Muszynski teaches:
- iv. Attaching transition elements, those elements 1b having port 15, to each end of the construction element (See Fig. 41; ¶97),
 - v. Closing the slit between elements, above and below, with tape, described as band elastic seals 23,

- vi. Filling the open void with insulating material (§ 6 Lines 16-17),
- vii. Further having the capability to attach known cogging elements to the ports 15.
- s. Claim 20. Muszynski teaches the element including wherein the elements 3 are curved in a longitudinal direction. In this case, at least two elements 3 form the constructional element side wall which is concave and the side which receives the plastic (See Fig. 43).
- t. Claim 21. Muszynski teaches the element including wherein the ribs 1b when having the shape of a plate, are arranged mainly perpendicular to the longitudinal axis of the structural element 3 (See Fig. 41).
- 8. Claims 7, 13, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muszynski (U.S. Pat. Pub. 2006/0168904) in view of Karlsson (U.S. Pat. 5,782,046).
- u. Claims 7, 13, 19 and 23. Muszynski teaches all the limitations of the claim, as described above, except wherein the structural elements 3 are furnished with grooves on their inner side. Karlsson teaches longitudinally extending grooves 12 on the inner side of a structural element to prevent unwanted twisting of the element before assembly (Karlsson Fig. 2; Col. 3 Lines 42-43). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the Muszynski combination with grooves to prevent unwanted twisting of the element before assembly.

Regarding claims 13 and 23, the structure of the apparatus renders the claimed method steps obvious since the claimed method steps would inherently be performed when assembling the combination as disclosed. In this case, one would not be able to cut the grooves after the gluing of the ribs, without destroying the member.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN EPPES whose telephone number is (571)270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
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